IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO. 2240 OF 1993

General Panchayat & Ors. .. Petitioners

Vs.

The Chief Secretary to the
Govt. of Maharashtra and ors. .. Respondents

Mr. S.P. Kanuga with Mr. H.P. Vyas with Mr. J.S. Chandanani for petitioners.

Ms. S.S. Bhende, AGP for State.

CORAM : B. H. MARLAPALLE &
D. B. BHOSALE,JJ.

Date : May 02, 2006.

P.C.:

1. This petition filed under Article 226 and 227 of the Constitution has taken exception to the notices dated 10/2/1993 and 10/3/1993 issued by the office of the Administrator, Ulhasnagar Township or the Officer In-charge, Kopri Colony, Thane for recovery of either the arrears of land revenue in terms of non agricultural assessment or damage charges. While granting Rule, these recovery notices were stayed by the order dated 4/10/1993. We have also noted that the connected petition has also been disposed off.

2. The Desk Officer from the Revenue and Forest Department has filed affidavit in reply and submitted

that (a) the residential tenements which form part of the Compensation Pool are liable for levy of non agricultural assessment tax from 1/8/1979 onwards as these tenements became the ownership property of the concerned allottees and (b) the land which was not allotted or which was lying vacant in the Kopri Colony was not the part of the Compensation Pool is liable for non agricultural assessment tax. As per the State Government once the residential tenements became on transfer the private properties of the individuals and were subject to State laws under Section 20 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, they were subject to all levy under the Maharashtra Land Revenue Code, 1966. It has also been pointed out by a fresh rejoinder that the Displaced Persons (Compensation and Rehabilitation) Act, 1954 has been repealed by the Government of India and, therefore, the provisions of the said Act will not come in the way of the State Government or the Collector, Thane for recovering the non agricultural assessment tax under the M.L.R.C. 1966.

3. The petitioners have made number of legal submissions in support of their case that once the residential tenements had become the part of the Compensation Pool, they were transferred absolutely and land appurtenant to said tenements should not be

separated. The State Government has no right to levy any tax/assessment under the M.L.R.C. 1966. It is further stated that the repeal of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 also does not come to the rescue of the State Government in support of the impugned notices.

4. In our view challenge to the impugned notices is required to be examined at the first instance by the Competent Authority under the Maharashtra Land Revenue Code, 1966 and any order passed by such an Authority is subject to revision/appeal under the said Code. It is necessary for the petitioners to reply to the notices and contest the claim, if they so desired, on the basis of submissions made before us. In case reply to the notices have not been filed, the petitioners would be at liberty to submit fresh reply or additional reply as the case may be and needless to mention, they will have to be heard by the Competent Authority before passing orders on the show-cause notices for collection of the Government dues in different forms.

5. We, therefore, grant liberty to the petitioners to approach the Competent Authority and file reply/additional reply to the show-cause notices and the Competent Authority, in turn, shall hear the

petitioners and pass appropriate orders on their own merits and as expeditiously as possible and in any case within a period of six months from the date of first appearance on which date the petitioners filed their reply or additional reply as the case may be. The parties to appear before the Competent Authority on 22nd May, 2006 at 11 a.m. As per the learned AGP, Collector, Thane is the Competent Authority. In cases where the vacant land has now been occupied by structures which are parts of the registered Co-Operative Housing Society, the Collector may consider the transfer as per the Rules and as has been stated in the affidavit in reply.

6. The petition is disposed off without prejudice to legal submissions to be made before the Competent Authority by either of the parties. Rule discharged.

No costs.

(D.B. Bhosale,J.) **(B.H. Marlapalle, J.)**